DOCUMENT RESUME

ED 286 244 CS 505 713

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TITLE Inferential Judgments Affecting the Decision-Making Process in the Attorney General's Commission on Pornography.
PUB DATE 5 Nov 87
NOTE 34p.; Paper presented at the Annual Meeting of the Speech Communication Association (73rd, Boston, MA, November 5-8, 1987).
PUB TYPE Viewpoints (120) -- Speeches/Conference Papers (150)

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS Battered Women; Bias; Child Abuse; Federal Legislation; Feminism; Film Production; Freedom of Information; Freedom of Speech; *Mass Media Effects; Media Research; Mental Rigidity; *Pornography; Rape; Research Committees; *Research Problems; Sexual Abuse; Social Problems
IDENTIFIERS Causal Inferences; Cause Effect Relationship; *Meese Commission on Pornography

ABSTRACT

Although the Attorney General's Commission on Pornography, also known as the Meese Commission, has been criticized excessively at times for threatening freedom of speech and press and individual rights to privacy, an analysis of its "Final Report" reveals numerous deficiencies in the Commission's decision-making process. These deficiencies, apparently influenced by initial biases and strongly held beliefs about the ill effects of pornography, are evident in the Commission's conception of the problem, the unwarranted inferences from which it drew conclusions, and the reliance on questionable causal relationships as the source of many of its recommendations. The report suggests that the members were unable to keep values, tastes, and prior beliefs disentangled from facts. The Commission did not develop a definition of pornography, but rather divided offensive, sexually explicit material into four categories: (1) sexually violent; (2) nonviolent, but depicting degradation, domination, subordination, or humiliation; (3) nonviolent and nondegrading; and (4) nudity. The various classifications were considered in relation to evidence establishing harm, either of a primary or a secondary nature. These classifications suffered from at least as much ambiguity as the term pornography itself. The Commission was divided over the validity of the nonviolent and nondegrading category and dismissed the relevance of the nudity category. Thus, they were left with three categories, one of which was a question even in their own minds. Additionally, the Commission found no evidence of a direct cause and effect relationship between pornography and violence against women or children, but chose to infer one out of "common sense." The Commission's approach appears to have been based on a prior presumption of a need for certain legislative proposals, for which rationales in available information were then sought. (Eighteen references are included.) (JC)

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INFERENTIAL JUDGMENTS AFFECTING THE DECISION-MAKING PROCESS IN THE ATTORNEY GENERAL'S COMMISSION ON PORNOGRAPHY

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November 5, 1987

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Abstract

Although the Attorney General's Commission on Pornography (better known as the Meese Commission) has been criticized excessively at times for threatening freedom of speech and press and individual rights to privacy, an analysis of its Final Report reveals numerous deficiencies in the Commission's decision making. These deficiencies, apparently influenced by initial biases and strongly held beliefs about the ill-effects of pornography are evident in the Commission's conception of the problem, the unwarranted inferences from which it drew conclusions, and the reliance on questionable causal relationships as the source of many of its recommendations.

INFERENTIAL JUDGMENTS AFFECTING THE DECISION-MAKING PROCESS IN THE ATTORNEY GENERAL'S COMMISSION ON PORNOGRAPHY

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In the charter of the Attorney General's Commission on Pornography, the following statement by William French Smith appears:

> The objectives of the Commission are to determine the nature, extent, and impact on society of pornography in the United States, and to make specific recommendations to the Attorney General concerning more effective ways in which the spread of pornography could be contained, consistent with constitutional guarantees (Final Report, II, 1986, p. 1957).

The charter was filed on March 29, 1985, and within 15 months, the Commission had issued a nearly 2000-page report on the results of its inquiry. To the extent that the charter obligated the members of the Commission to recommend "more effective ways in which the spread of pornography could be contained," they were more than responsive. In all, the commissioners generated 92 separate recommendations and devoted well over 300 pages of their report to discussion of the rationale and presumptions underlying the expected impact of each.

From almost the moment of its creation, the Attorney General's Commission became an object of controversy, as civil libertarians, in particular, saw the investigation mandated as politically inspired, the conclusions pre-ordained, and the prospect of serious consequences for freedom of expression and individual rights of privacy. The wording in Attorney General Smith's charge would seem to warrant concern. The language does little to encourage an attitude of dispassion. Rather,

it suggests conclusions not in evidence and presumes the need on a priori grounds for a course of action. This runs counter to the spirit of inquiry and discovery usually associated with fact-finding bodies, and with commissions especially.

There is nothing in Attorney General Smith's statement, of course, that prevented the Commission from conducting as objective an inquiry as possible, trying to determine whether evidence about pornography establishes a need for some type of control of its distribution and consumption, and assessing the probable consequences of such controls as might be warranted in relation to impact they might have, not only on the problems to which they would be addressed, but on the rights about which critics were concerned. In fact, several of the 11 commissioners involved understood themselves to be conducting precisely this sort of inquiry. The constraints with which they were concerned consisted of limited budgetary resources and substantial time pressures for completion of the work. As Commission Chair Henry Hudson observed, "I believe our final report represents as intensive an examination of the multi-faceted topic of pornography as could be conducted within our time and budgetary constraints" (Final Report, I, 1986, p. 32). Such testimony, however, is not an especially convincing index of how well or inadequately the commissioners may, in fact, have executed their task, nor can one rely on such self-assessments for judging the extent to which the Commission either conformed or failed to conform to the dictates of reasoned judgment.

Fortunately, the Final Report is quite revealing of many of the aspects of how the Commission went about its task, the information on which it drew, interpretations of what evidence demonstrated or could be used to establish, and the care commissioners exercised in considering the

implications of the evidence assembled for the sorts of recommendations they formulated. The purpose of this essay is to examine these matters and, more specifically, to determine the extent to which collective judgments were warranted by the analysis of the information on which the Commission drew.

Composition of the Commission

In April 1985, the Attorney General's Commission on Pornography began its work in a partial atmosphere of suspicion and doubt created by individuals concerned with actions that might threaten freedom of choice and by commercial interests who stood to lose substantial financial resources. In some quarters, the creation of the Commission was viewed as a political response to conservative groups that had supported President Reagan through two elections in the expectation that he would move the country in the direction of the social and religious values they espoused. So concerned about the motivation behind the Commission and the potential threat to civil liberties it seemed to pose were some parties that Barry Lynn, legal counsel for the American Civil Liberties Union, felt obliged to attend all of the Commission's public hearings and to share his reactions even before the Final Report had begun taking shape.

That the motives of the commissioners or those responsible for their appointment were directed toward the destruction of Constitutional guarantees of freedom of speech and press or rights of personal privacy is doubtful. Whether they were as a whole capable of the detachment to which their roles as commissioners would seemingly commit them, however, is a more legitimate and defensible question to raise.

The Commission was chaired by Henry E. Hudson, Assistant United States Attorney for the Eastern District of Virginia. His legal prominence, in

part, was attributable to his successful prosecution of adult book store owners during the period he served as District Attorney in Arlington, Virginia. Also serving as Commission members were Judith Becker, Associate Professor of Clinical Psychology at Columbia University; Diane Cusack, member of the City Council and former Chair of the Zoning and Planning Commission in Scottsdale, Arizona; Park Dietz, Professor of Law and Behavioral Medicine and Medical Director of the Institute of Law, Psychiatry, and Public Policy at the University of Virginia; James Dobson, former Associate Clinical Professor of Pediatrics at the University of Southern California and currently president of a non-profit organization dedicated to the preservation of the home; Edward Garcia, United States District Court Judge for the Eastern District of California; Ellen Levine, Editor-in-Chief of Woman's Day; Tex Lezar, a Dallas lawyer and former counselor to Attorney General Smith; the Reverend Bruce Ritter, a Catholic priest and president of a child-care agency in New York City; Frederick Schauer, Professor of Law at the University of Michigan; and Deanne Tilton, President of the California Consortium of Child Abuse Councils (Final Report, I, 1986, pp. 3-20).

Of the 11 commissioners, then, one had been active in the prosecution of obscenity cases, two were directly concerned with the abuse of children frequently involved in the production of pornography, one had been counsel to the Attorney General who appointed the Commission, one had been chair of a zoning and planning commission concerned with the location of adult entertainment establishments, one had established an institute concerned with the propagation of a particular set of social values, one was a federal judge with prior experience in obscenity cases, two were professors of law, and one was editor of a popular magazine concerned with women's

issues. There is no evidence that any of the Commission members had expertise on the subject of pornography or its effects, although Judith Becker had done research with male rapists and was familiar with some of the effects on behavior they attributed to the consumption of pornography. In addition, those involved in the prosecution of obscenity cases as well as others who through their work had come indirectly or directly into contact with the pornography industry may well have had a general knowledge of the subject and understanding of the concerns about its alleged effects.

The profiles of the commissioners do not suggest that collectively they were especially well qualified for the task they had been given but do suggest that in more than one instance suspicion of bias might be warranted. Suspicion, of course, is an insufficient basis for assuming that any of the commissioners was unable to view and assess evidence objectively. More appropriate to the issue of detachment is what several of the Commission members revealed about their mind-sets in the individual statements they prepared for the Final Report. Diane Cusak, for example, asserted that the availability of sexually explicit materials challenged the understanding "held by society for thousands of years that sex is private, to be cherished within the context of love, commitment, and fidelity" (Final Report, I, 1986, p. 36). This suggests a rather strongly held belief structure and rigid view about what constitutes acceptable sexual conduct.

Park Dietz allegedly came to the Commission concerned primarily with public health aspects of pornography and claimed that only later did he come to see the moral implications of widespread distribution and consumption of pornography (Final Report, I, 1986, p. 39). That many of the sexual practices and activities he describes are potential or actual

hazards is hardly questionable, but the extent to which consumption of pornography is responsible for, or encourages, such behavior is an issue he fails to address. Instead, he appends an article on detective magazines that he co-authored in which six cases of aggressive and anti-social behavior are linked to the reading of this genre of popular magazine.

In his statement, James Dobson felt convinced of a relationship between sexually explicit material and aggressive behavior, particularly rape, despite his acknowledgement of the absence of convincing evidence: "[I]t is my belief, although the evidence is not easily obtained, that a small but dangerous minority then choose to act aggressively against the nearest available females. Pornography is the the theory; rape is the practice" (Final Report, I, 1986, p. 78). One wonders how Commissioner Dobson in admitting to a lack of directly relevant information could so clearly see a causal connection between exposure to pornography and rape. If it is true that the vast majority of consumers do not aggress or seek to aggress against women and that the majority of rape cases, moreover, are not associated with prior exposure to pornographic material, there would seem to be a better basis for arguing the absence of a causal connection.

Father Ritter represented a more moderate point of view than the three preceding commissioners; however, like Commissioner Dobson, he remained convinced that existing evidence suggests a compelling basis for assuming a causal connection between exposure to pornographic material and sexual abuse, most notably rape (Final Report, I, 1986, pp. 172-173). He too clung to the belief despite his admission of the absence of direct evidence.

Deanne Tilton-Durfee, in her statement, seemed unable to separate concerns for child abuse from suspected effects of exposure to pornographic materials. The following statement is revealing: "In my opinion, violent

materials, sexual or non-sexual, are the most serious concern regarding potential negative effects on children's attitudes and behavior" (Final Report, I, 1986, p. 186). This observation followed a rather extended discussion of child abuse and victimization. That one would abuse a child, sexually or otherwise, is reprehensible and should not be tolerated, but that is an issue independent of what exposure to sexually explicit material might cause one to think, feel, or do. In any event, it seems clear that this particular commissioner held strong beliefs about the potential impact of exposure to the portrayal of violent behavior on consumers' attitudes and behavioral proclivities.

Tilton-Durfee joined Commissioners Levine and Becker in an expression of revulsion at the image of women pornography typically projects. Levine and Becker, however, prepared a separate statement strongly contesting the conclusions of the Commission about the pornography/aggressive behavior/rape relationship others felt reasonable to assume (Final Report, I, 1986, pp. 193-212). Ostensibly, their willingness to endorse the recommendations of the Commission stemmed from a concern for the need to protect children from exploitation by pornographers and other related abuses.

A clear majority of those serving on the Attorney General's Commission appeared to have intense feelings about one or more of the aspects of pornography, and from their individual statements, one fails to discern an ability to keep values, tastes, prior beliefs, and facts disentangled. One also senses in several instances an inability to apprehend distinctions between the psychological and physical harm producers of pornography may do to those involved in its creation and the harm that might befall individuals who consume it. Throughout several of the commissioners' statements runs a theme implying that if somehow pornography could be kept

out of the hands of the consumer, other social problems, such as abuse of women and children, would be less serious.

Critics of the Commission, by and large, have not been charitable in their assessments of the members' objectivity or ability to suspend judgment in dealing with this complex subject. Carole Vance (1986), for example, noted that, "Prior to convening, seven of the eleven commissioners had taken public stands opposing pornography and supporting obscenity law as a means to control it" (p. 76). A much more scathing assessment was offered by Hendrick Hertzberg (1986). After questioning the ability of three of the commissioners in particular to exercise unbiased judgment, Hertzberg asserted: "The Meese commission lacked the financial and staff resources of its predecessor, but since its conclusions were preordained, it didn't really need them" (p. 21). And John Baker (1986) viewed the commissioners as "[a]pparently determined from the start to prove a causal relationship between pornography and violence" (p. 30).

Such characterizations are to a degree both excessive and unfair. Given the widespread availability of sexually explicit material, it would probably be unrealistic to assume that a commission could have been assembled without members not having some preconceptions about the connections of such material to other aspects of social behavior. And even if such observations as Lindsy Van Gelder's (1986) that the Commission's "overall drift is perceptibly to the right" (p. 52) were accurate, the presence of preconceptions and beliefs does not preclude the possibility of impartiality in the assessment of information bearing on the formation of public policy. In this regard, not even the mind-sets revealed in the statements of several of the commissioners, let alone the attributions of observers and critics, in and of themselves are a gauge of how well or

poorly the Commission may have conformed to the requirements of informed judgment and rational choice. This determination necessitates a more careful examination of the actual report and apparent bases on which the commissioners arrived at the conclusions they did.

Unfortunately, the Commission's report is the product of a process of thought and deliberation that is only indirectly revealed by the conclusions drawn and the description of the information that entered into them. Despite this limitation, there are several features of the report that provide a basis for judging the adequacy of the Commission's analysis and the extent to which it warranted the recommendations the members advanced. The remainder of this essay address the issue.[1]

The Commission's Conception of Pornography

Although chartered as the Attorney General's Commission on Pornography (soon thereafter to be known as the Meese Commission), no definition of the object of inquiry was provided. Nor throughout the entire investigation did the members ever settle on a definition of the term pornography. In the report, they devote seven pages to a discussion of reasons for their inability to define the concept and why the attempt to do so would have reduced the inquiry to an unprofitable "definitional quagmire" (Final Report, I, 1986, pp. 227-233). The sentiment, insofar as the need for definition was concerned, was to take the position of Justice Potter Stewart that "I know it when I see it" (from Jacobellis V. Ohio, cited in the Final Report, I, 1986, p. 229).

Given the difficulty others have had specifying what is meant by the term pornography, one has some sympathy with the Commission's position. On the other hand, its many criticisms of laxness in law enforcement and looseness in the interpretations of the courts would seem to make the

matter of definition more critical to the task the Commission faced than the members seemed to acknowledge. How could they expect either to determine the effects of pornographic material or produce recommendations consistent with their charge without some clear sense of what it was that determined the scope of inquiry and the type of material to which the recommendations would apply? How, moreover, could they expect the recommendations reached to have intended consequences when their implementation would occur in the same atmosphere of ambiguity as that which many of the commissioners appear to have believed led to the widespread availability and consumption of pornography in the first place?

The Commission's solution to the definitional problem was to divide materials into four categories: (1) sexually violent, (2) nonviolent depicting degradation, domination, subordination, or humiliation, (3) non-violent and non-degrading, and (4) nudity (Final Report, I, 1986, pp. 329-349). The various classifications were considered in relation to evidence establishing harm, either of a "primary" or "secondary" nature (Final Report, I, 1986, p. 304). Exactly what these terms represent is not clear either, however. Primary harms are defined in the report as "those in which the alleged harm is commonly taken to be intrinsically harmful, even though the precise way in which the harm is harmful might yet be further explored" (Final Report, I, 1986, p. 304). The term secondary harm is characterized in the following way: "In other instances, however, the alleged harm is secondary, not in the sense that it is in any way less important, but in the sense that the concern is not with what the act is, but where it will lead" (Final Report, I, 1986, p. 304).

In principle, materials of a sexually explicit nature that cause harm of either a "primary" or "secondary" nature were the focus of the

Commission's inquiry. If harm could be demonstrated, then some type of legal constraint on the production, dissemination, and/or consumption of such materials would, in the commissioners' judgment, be justified.

On the surface, the Commission's approach to identifying materials germane to its inquiry seems sensible. The problem is that the classifications suffer from at least as much ambiguity as the term pornography itself. Although the report contains illustrations for each of the four categories identified, with the possible exception of nudity not involving apparent sexual acts, unequivocal assignment of materials to categories would be difficult at best.

Nisbett and Ross (1980) have discussed a class of inferences which they call "descriptive." One subclass involves the assignment of perceptual or conceptual objects to categories. Human perceivers experience considerable difficulty making these types of inferential judgments, according to Nisbett and Ross, and they are especially prone to error when categories are unclear. The Commission's scheme would appear to suffer from this deficiency, and despite the illustrations, one would not easily be able to make appropriate assignments.

The Commission was also divided over the ecological validity of the so-called "non-violent and non-degrading" category (Final Report, I, 1986, pp. 335-347). That is, they disagreed as to whether such a category exists, with some commissioners' taking the position that overt displays of sexual behavior are necessarily and inherently degrading. Commission members dismissed the relevance of the "nudity" category. Hence, they were left with three categories, the existence of one of which was even a question in their own minds. The ambiguity and imprecision of the categories of materials about which the Commission members were concerned

would surely complicate the determination of harm and the identification of recommendations appropriate to the prevention and treatment of such harm as might exist.

The Commission also exhibited a tendency in establishing categories among some of its members to define sexually explicit materials in terms of presumed effects. This tendency is perhaps most evident in the discussion of the "non-violent and non-degrading" category. In commenting on the lack of evidence establishing a causal link to sexual violence for materials fitting this category, the Commission observed that:

> That there does not appear from the social science evidence to be a causal link with sexual violence, however, does not answer the question of whether such materials might not themselves simply for some other reason constitute a harm in themselves, or bear a causal link to consequences other than sexual violence but still be taken to be harmful (Final Report, I, 1986, p. 338.

The Commission remained divided on the issue of inherent harm, but for those who subscribed to such a position, it would appear to be virtually impossible to come to any conclusion other than that pornography is harmful. For them, harm is implicit in the notion of what it is that makes certain types of material pornographic. They might almost have defined pornography as any sexually explicit material presumed to have harmful attitudinal and behavioral effects.

The failure of the Commission to develop a clear categorization of the types of materials whose effects they sought to establish, the nebulous descriptions of "primary" and "secondary" effects, and the apparent conceptualization of these materials as inherently harmful by some members could have done little to facilitate the proper interpretation and assessment of the information assembled or to limit the domain to which conclusions and related recommendations might legitimately apply. At this

most fundamental level, then, the Commission's decision-making behavior left a great deal to be desired. More important, perhaps, is that the kinds of conceptual inferences made at this level most likely affected other inferential judgments dealing with matters of covariation, causation, and prediction.

Determining the Effects of Pornography

In the little more than a year the Commission was given to complete its investigation and to produce a report of the findings and recommendations, the members had access to a considerable variety of materials. In addition to published research, the commissioners conducted a series of hearings at various locations around the United States,[2] in which they heard testimony from experts, self-identified victims of pornography, concerned citizens representing particular points of view, and a variety of law enforcement officials. They also acquired a diverse sample of commercially available films, photographs, books, newspapers, and magazines. The commissioners were even taken on a guided tour of an adult book store by a local law enforcement official. Court rulings and past legal opinions constituted yet another source of information.

Despite the volume and variety of information available to the Commission and the testimony taken in the public hearings, the members did not have resources to fund original research. Many witnesses, moreover, were individuals prepared to speak of bad experiences with consumers of pornography, or who saw themselves as consumers adversely affected by the exposure. This type of anecdotal material was of limited value in at least two respects. First, the sample was small. Second, it was predominately one-sided. As Commissioners Becker and Levine pointed out:

> In collecting the testimony of victims, it was difficult enough to find witnesses willing to speak out about their intimate negative experiences with pornography. To find people willing to acknowledge their personal consumption of erotic and pornographic materials and comment favorably in public about their use has been nearly impossible (Final Report, I, 1986, p. 196.

Testimony from witnesses, especially self-identified victims, was problematic in other respects. One had no way of verifying the incidents reported nor of determining whether the accounts of the role pornography played were accurate. In addition, the testimony was often vivid and dramatic in its presentation. Reports of battered children, abused wives, torture, and sexual assault could serve only to elicit sympathy in any but the most callous of individuals. At a psychological level, the vividness of information is memorially more available than other types of data on which one might base inferences (Nisbett & Ross, 1980). Coupled with the fact that most of the experiences reported were negative, the testimony presented to the Commission could easily have contributed to erroneous judgments about the extent to which the consumption of pornography has the kinds of effects described by many of the witnesses.

Of course, the commissioners were not exclusively reliant on testimony in their efforts to determine the effects of pornography. They, or at least staff members, consulted published social science literature. The problem with much of this information, however, was that studies of an experimental nature particularly were not, and could not be, designed to test directly some of the types of effects with which the Commission was most vitally concerned. Correlational studies, based on social statistics, moreover, were fraught with the usual difficulties attendant upon establishing causal relationships. The fact that the incidence of rape, for instance, is high in locales in which the consumption of pornography is high and lower in locales in which the consumption of pornography is high

and lower in locales in which consumption rates are relatively lower does not establish that rape in any degree is attributable to the availability of, or exposure to, sexually explicit materials of the types the Commission had identified.

Through no particular fault of its own, the Commission did not appear to have information well suited for making clear determinations of the effects of pornography. Yet in recognizing this limitation, the majority of the commissioners acted as if they did. The irony is evident in any number of instances in the report, but possibly clearest in the Commission's discussion of its standard of proof for establishing a causal relationship:

> As we deal with causal assertions short of conclusive but more than merely some trifle of evidence, we have felt free to rely on less proof merely to make assertions about the harm then (sic) we have required to recommend legal restrictions, and similarly we have required greater confidence in our assertions if the result was to recommend criminal penalties for a given form of behavior than we did to recommend other forms of legal restriction (Final Report, I, 1986, p. 308).

A causal relationship either exists, or it does not, and the acceptability of a causal claim is not dependent on the use to which it may be put. That is not the crucial point, however. The more important consideration is that the Commission, with only the apparent exceptions of Judith Becker and Ellen Levine, felt free beyond some unspecified minimum standard to conclude when a causal relationship may be said to exist, regardless of possible reasons for believing otherwise.

In its discussion of the category of sexually violent material, the Commission posits a causal effect on the incidence of sexual violence among consumers. This connection is based on evidence from studies showing a relationship between exposure to the type of material in question and aggressive behavior toward women. How well research establishes this link

is itself a question to be addressed at a later point. But even if the exposure/aggression relationship were firmly established, its applicability to the incidence of sexual violence is doubtful. At least, the extension appears to be unwarranted.

To establish the causal linkage, the Commission report acknowledges that certain assumptions (inductive leaps, if you will) were necessary:

> Finding a link between aggressive behavior towards women and sexual violence, whether lawful or unlawful, requires assumptions not found exclusively in the experimental evidence. We see no reason, however, not to make these assumptions. The assumption that increased aggressive behavior towards women is causally related, for an aggregate population, to increased sexual violence is significantly supported by the clinical evidence, as well as by much of the less scientific evidence. They are also to all of us assumptions that are plainly justified by our own common sense (Final Report, I, 1986, p. 325).

It is interesting that the only clinical psychologist having done research with rapists disputed the claim (Final Report, I, 1986, pp. 195-207). Of perhaps even greater interest is the fact that one of the expert witnesses whose research on the relationship was cited extensively in the report also disputed the basis for concluding that his and others' work either directly or indirectly establishes the alleged causal linkage (Donnerstein & Linz, 1986).

Other effects attributed by the Commission to the class of material labeled "sexually violent" were of an attitudinal variety, including increased acceptance of the "rape myth" that women actually enjoy or privately wish for the experience, greater acceptance of the behavior of sexual offenders, reduction in sympathy for the victims of sexually aggressive and violent behavior, and increases in the belief that victims of sexual assault provoke such actions (Final Report, I, 1986, p. 327). In support of its conclusions about the causal relationships reviewed, the Commission was heavily, if not exclusively, reliant on social science

research--the same research that at other points some members were willing to discount because of its incapacity for capturing the social context in which the consumption of pornography typically occurs.

As Commissioner Hudson noted in reference to social science research on the relationship of sexually violent material and subsequent behavior of consumers, "From a purely social science perspective, there is no cogent evidence that materials in this class have predominately negative effect. There is, however, a scarcity of research material within the definitional boundaries of the Category" (Final Report, I, 1986, p. 29). In light of how the Commission used social science research, there appears to have been substantial inconsistency. When such inquiry produced evidence of negative effects, then it seemingly had probative value. When unproductive of such evidence, social science inquiry was viewed as having questionable and restricted utility.

A similar instance of the sort of inconsistency mentioned above is apparent in the Commission's discussion of the effects of so-called "non-violent but degrading" material. Given limited evidence of negative effects in social science research for this particular category, the commissioners noted:

> The absence of evidence should by no means be taken to deny the existence of the causal link. But because the causal link is less the subject of experimental studies, we have been required to think more carefully here about assumptions necessary to causally connect (sic) increased acceptance of rape myths and other attitudinal changes with increased sexual aggression and sexual violence. And on the basis of all the evidence we have considered, from all sources, and on the basis of our own insights and experiences, we believe we are justified in drawing the following conclusion: Over a large enough sample of a population that believes that many women like to be raped, that believes that sexual violence and sexual coercion is often desired or appropriate, and that believes that sex offenders are less responsible for their acts, will commit more acts of sexual violence or sexual coercion than would a population holding these beliefs to a lesser extent (Final Report, I, 1986, pp. 332-333).

The preceding passage is also indicative of a general deficiency displayed by the Commission members. Nowhere in the report does the Commission give any indication of the percentage of the pornography consuming public that is likely to be harmed in either a behavioral or an attitudinal sense. Neither does it provide so much as an educated guess about the percentage of individuals likely to become the victims of consumers of pornographic materials. Yet, with data that the commissioners themselves frequently distrusted and with highly ambiguous conclusions like the one above, they somehow found a basis for making 92 specific recommendations aimed at controlling a problem of unknown dimensions which is allegedly the result of something they could not--at least, chose not--to define.

In one observation, the Commission was probably quire accurate. Social science inquiry into the subject of pornography has not involved studies very well designed for determining effects like those in which the commissioners were ostensibly interested and, for the most part, believed to exist. Virtually none of the experimental studies on which the Commission drew deals with prolonged exposure to pornography. A typical study may involve exposure to a series of slides depicting a rape sequence or other sexually violent acts (e.g., Malamuth, 1981) or a short film clip of five to six minutes' duration (e.g., Donnerstein, 1984). Even in studies having so-called "massive" exposure, one finds the concept operationally defined as something like the viewing of six eight-minute film segments once a week over a six-week period (e.g., Zillmann & Bryant, 1982). The Commission, however, was trying to account for effects presumably developed through continuous and increasing exposure over a period of years. The commissioners themselves had much greater exposure to

pornographic materials over the period of their investigation than the typical subject in an experiment, and none them appeared to experience any of the negative effects they attributed to other consumers.

Another problem with such research has been the general lack of ability of researchers to control, or even determine, prior levels of exposure to pornographic materials. Since college-aged males are so frequently the subjects in experiments, and since there are good reasons for presuming that many of them have had at least some, possibly substantial, exposure, one cannot eliminate this potentially contaminating source of influence. This is not to suggest that the effects of stimulus materials used in the experimental setting are beyond detection, nor is it to imply that research in the area has been less than competently designed and executed. In fact, one cannot help but be impressed by the care and experimental rigor evident in much of this body of research.

The point is that were prolonged exposure to pornography to have the harmful effects the Commission seemed to believe, at least some of the subjects in experimental studies presumably would have experienced the ill effects, and watching a five-minute film, or even several such films, would not be very likely to induce changes in attitude or aggressive behavior substantially beyond what would have already transpired prior to be participating in an experiment. Such changes as have been observed, then, may be attributable to other factors, including the demand (or perceived demand) characteristics of experiments and reactions to other aspects of the experimental environment. These were not possibilities the Commission seemed willing to consider when experimental research yielded evidence in support of the commissioners' hypothesis.

Even if changes that have been observed in laboratory studies could be

taken as direct and exclusive consequences of exposure to the stimulus materials utilized, one must ask whether they have been substantial enough and sufficiently isomorphic to naturalistic behavior to warrant the kinds of inductive inferences some members of the Commission were prone to make. A statistically significant change or difference in something like attitudes toward women or the perceived likelihood of sexually aggressive behavior is not necessarily meaningful. When measures, such as the intensity of shock administered by subjects exposed to sexually violent material to a target person, have been used to assess aggression or the likelihood of aggression, scale differences of less than one interval have sometimes proved to be significant (e.g., Donnerstein, 1980). In most of the studies on the subject, variance attributable to the experimental manipulations is far smaller than the error, or unexplained, variance. Like many other individuals, the commissioners often appeared to confuse the statistical concept of significance with ordinary usage of the term.

The external validity of much of the research on which the Commission drew is also open to question. Measures, such as the administration of shock and responses to questionnaire items involving the perceived acceptability of sexually aggressive and violent behavior, do not provide much of a clue to how one might actually behave outside the laboratory. Certainly, they are questionable as indices of the types of acts to which the self-identified victims and law enforcement officials had testified in the public hearings.

The Commission also exhibited a tendency to perceive implicit causal relationships of a specific directional nature in the correlational studies they consulted. To the extent that a correlation may be indicative of a cause-to-effect relationship, in many instances, one cannot be sure which

of two variables may be the cause and which the effect. Data suggesting, for example, a marked increase in sexually violent behavior paralleling substantial increases in the availability, distribution, and consumption of pornographic material does not establish pornography as the causal factor. One could just as easily reason that an increase in sexually violent behavior and social attitudes has been the source of an increase in the consumption of and demand for pornographic material. Similarly, data suggesting that states having tighter controls on distribution and consumption have lower rates of sexually violent behavior does not, in and of itself, constitute evidence of a causal connection. Such a relationship might simply indicate that states populated by individuals having less desire for pornographic materials and lower rates of sexually violent behavior are more likely to place restrictions on the production and distribution of such materials.

At a theoretical level, members of the Commission understood that correlational data are not necessarily indicative of causal relationships. The matter is discussed in some detail in the report (Final Report, I, 1986, pp. 315-317). Nevertheless, they tended to view it consistently among combinations of potential causal factors, each of which independently contributes to the behavioral and attitudinal effects of interest. Only once is pornography discussed as an effect, and then in relation to new technologies. In addition, in comparing itself to the 1970 Commission on Pornography, the Attorney General's Commission attributed the failure of the earlier commission to identify similar effects, in large part, to pornography's more restricted circulation (Final Report, I, 1986, pp. 224-227).

Despite the Commission's failure at any point in its investigation or

in its report to establish, or even to estimate, the percentage of individuals exposed to pornography who commit acts of violence or who develop unhealthy attitudes as a result, and despite the questionability of the types of evidence consulted in providing grounds for assuming causal connections of the type reported, the members nevertheless developed numerous recommendations. Upon first examination, one wonders how the analysis of the problem could have suggested most of the remedies proposed. If one agrees with the Commission that availability and consumption are at the base of the social ills they identified, however, he or she can begin to see the logic underlying the recommendations. But in the absence of demonstrable causal connections, the likelihood that the recommendations would have measurable effects is doubtful. This is a matter that will be examined more fully in the next section of this essay. Insofar as the present discussion is concerned, one must conclude that the Commission's identification of a problem to be solved rests on the acceptance of many questionable inferences requiring assumptions for which few grounds for belief are furnished. In this regard, the Commission's understanding, assessment, and use of information leaves one with very little confidence in the judgments of its members.

Solving the "Problem"

In light of the preceding discussion, there are two ways in which one can view the recommendations of the Attorney General's Commission on Pornography. One is as a set of actions aimed at alleviation of the incidence of sexually violent behavior and alteration of the attitudes and values the Commission, to its satisfaction, determined have been the consequence of the increased availability and consumption of pornographic material. The other, which is consistent with the Commission's charter, is

to view them simply as actions designed to contain the spread of pornography. The report would seem to suggest that the commissioners saw the recommendations as achieving both ends because in the judgment of most of them, the harms they had identified were in large measure the causal outcome of availability and consumption.

For purposes of this analysis, it is not possible, nor is it probably necessary, to examine each of the 92 recommendations presented in the Final Report. More central to the critique, perhaps, are the bases for believing that the recommendations, upon implementation, would have the presumed effects.

The Commission did not specifically address the question of how implementation of its recommendations would reduce consumption. In fact, the discussion of the proposals often reminds one of high school and college debaters' "plan meets needs" arguments, in which assertions serve as substitutes for evidence or probability assessments. As an example, for recommendation 37 that would require retailers or distributors of sexually explicit materials to use consent forms and to maintain records of performers' ages, the Commission noted that, "This proposed legislation should afford protection to minors through every level of the pornography industry" (Final Report, I, 1986, p. 619). The discussion is detailed in respect to what would be required under the legislation, but the reasons and evidence for believing that minors would be better protected are not evident.

As another example, in recommendation 7, the Commission encouraged the elimination of the requirement that material be "utterly without redeeming social value" in order to be considered obscene from state statutes and local ordinances. In this case, the Commission did not even make an

assertion about the probable consequences. Instead, it reviewed court cases suggesting that such amendments could be made without constitutional problems (Final Report, 1986, I, pp. 491-495).

The Commission failed to make any estimate of the extent to which availability and consumption, especially, might be reduced by the recommendations. Nor did it make much effort to assess the extent to which the pornography industry might continue to function in violation of the proposed legislation. Still, it is not unreasonable to assume that the recommendations taken as a whole would probably reduce consumption to some degree and make pornographic materials less easily accessible. But even if the expected impact were substantial, the remaining question is whether a reduction in the availability and consumption of pornography of any magnitude would show corresponding changes in the behavior and attitudes the Commission so strongly believed pornography to encourage.

Many, in fact, most, of the Commission's recommendations involve legislation aimed at the protection of children and adults forced into the production of pornographic films, magazines, and the like, and who are often physically and psychologically abused. These recommendations, of course, have few implications for the effects presumed to be causally linked to the consumption of pornography. Collectively, they might restrict the amount of certain types of material currently available, but there is no necessary reason that such protections would limit one's exposure to other classes of pornographic materials.

Other sets of recommendations involved changes in laws to facilitate prosecution of obscenity cases, the creation of nuisance and anti-display laws, and one proposal to provide civil remedies for harm attributable to pornography. In the last category, it should be noted that efforts along

these lines in Indianapolis and Minneapolis met with serious opposition. Legislation was defeated in Minneapolis, and Indianapolis's act was ruled unconstitutional (Fields, 1986).

In its discussion of the recommendations, in not one case did the Commission relate the specific provisions to the behavior and attitudes of consumers or indicate how the effects on them could be reduced. The reader must presume these consequences on the basis of causal linkages the Commission felt it had established. Since the causal relationships are questionable at best, the Commission gives one little reason to predict that they represent realistic solutions to the problems of primary concern--or at least, the problems to which the Commission devoted most of its attention. Since the causal relationships were so strongly implanted in the minds of some commissioners, however, it is more understandable that they would expect the recommendations to have the desired effect. This type of thinking represents an excellent example of the sort of influence that Nisbett and Ross (1980) have suggested some knowledge structures exert on a variety of inferences, including those we might think of as predictive.

The Attorney General's Commission as a Decision-Making Group

The Attorney General's Commission on Pornography engendered a substantial amount of criticism and negative reaction. Even before the release of the Final Report, the National Coalition Against Censorship had published a proceedings entitled The Meese Commission Exposed (1986). As previously mentioned, moreover, one of the leading expert witnesses had seriously questioned the Commission's interpretation of his own and others' research (Donnerstein & Linz, 1986). Many were concerned about the Commission's apparent coercive tactics in a letter to retail food store

executives requesting, in effect, that they provide cause by a specified date for their not being listed as distributors of pornography. This led to the almost immediate removal of the inventory of Playboy and Penthouse magazines from the shelves of 7-11 stores (Hefner, 1987). Others found the Commission to be a body pursuing misplaced concerns (e.g., Saltzman, 1986). And still others viewed it to be a group not to be taken seriously. This sentiment was well expressed in a newspaper article with the caption, "The story of X," in which the report was characterized as "a well-meant, windy muddle" (New York Times, July 13, 1986, sec. E, p. 28).

Although some of the criticism was unnecessarily extreme, in light of how the Commission functioned as a decision-making body, negative reactions are understandable. However well intentioned those serving on the Commission, one is hard-pressed to find evidence that the conclusions reached by the members were warranted by the analysis of relevant information or that the recommendations are clearly suggested by a very shaky hypothesis about the social effects of pornography. The Commission's approach appears to have been one based on the presumption of a need for certain legislative proposals and for which justifications in available information were then sought. The commissioners' behavior in this respect is consistent with that of many decision-making bodies (see Hirokawa & Scheerhorn, 1986). That fact, however, does little to increase the credibility of the report or the public's confidence in it.

The critique and evaluation of the Attorney General's Commission and its report are not to suggest that pornography is an aspect of contemporary social life about which people have no reason to be concerned. Much of it is offensive, and many of the portrayals of women, as well as what they reveal about human values, do little to commend either the production or

consumption of pornographic material. But this is hardly unique to the phenomenon of pornography. Still, concerns about pornography have been intelligently articulated and debated by individuals of considerable sensitivity for classes of rights that appear to be thrown into conflict by the availability and widespread consumption of pornographic material (see, for example, Copp & Wendell, 1983). In addition, one could not read the report without being impressed by the testimony of witnesses like women's rights advocate Andrea Dworkin or be untouched by accounts of abusive treatment of children and women forced into subservient and damaging relationships with producers and alleged consumers of pornography. It may also be the case that the consumption of pornographic materials over time is productive of the unhealthy attitudes and injurious behavior the Commission claimed. But these possibilities were clearly not well demonstrated in the Commission's investigation, nor were the recommendations well established as appropriate remedies. In these important respects, the Commission's work and its report must surely be judged deficient.

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Footnotes

[1]The preceding discussion of the commissioners' expressed and apparent beliefs is a useful source of data for understanding situations in which the Commission appears to have drawn conclusions unwarranted by the data available to it.

[2]Hearings were held in Washington, D. C., Chicago, Houston, Los Angeles, Miami, and New York (Final Report, II, 1986, pp. 1845-1859).